



New York

885 Third Avenue, 20th Floor
New York, NY 10022-4834
Tel: 212.209.3050
Fax: 212.371.5500

Princeton

5 Vaughn Drive
Princeton, NJ 08540-6313
Tel: 609.514.1500
Fax: 609.514.1501

December 15, 2017

By ECF and email (chambersnysdseibel@nysd.uscourts.com)

The Honorable Cathy Seibel
United States District Judge
United States Courthouse
300 Quarropas St.
White Plains, NY 10601

Re: 17-CV-06513-CS, Can't Stop Prods. v. Sixuvus, Ltd.

Dear Judge Seibel,

We represent intervenor Karen Willis d/b/a Harlem West Entertainment ("Harlem West") in the above action. We write in response to Defendants' letter dated December 14, 2017, ECF 53, ("Letter") requesting a pre-motion conference in connection with a proposed motion to compel Harlem West's immediate compliance with this Court's Order of Friday, December 8 ("Order"), or in the alternative for contempt, if compliance is not immediately forthcoming.

Harlem West has diligently attempted in a reasonable manner to comply with this Court's Order and will continue to do so, and is in substantial compliance with the Order. As counsel notified the Court at last week's intervention hearing, Harlem West has, since early last week, been touring Australia with its Village People group featuring Victor Willis. Despite the resulting difficulties of time and geography, Harlem West has taken steps in good faith to delete or modify disparaging online remarks about Defendants' group, and to add the Court-approved language to its website and its social-media platforms on Facebook, Instagram and Twitter.

The screenshot examples of alleged non-compliance attached as exhibits to Defendants' Letter do not accurately reflect the current state of Harlem West's online presence. Defendants make no specific complaint about disparagement, and concede in a footnote that the particular allegedly disparaging posts to which they had previously objected have been modified, see Letter at 2, note 2, so this letter will focus on the use of the Village People mark on Harlem West's platforms.

Defendants' Exhibit A and B are from Dec. 11, and have since been changed. Exhibit C is from Dec. 13, and includes Facebook, Twitter, Instagram and website pages that have now been changed to comply with the Order, see attached Exhibit 1 (Facebook), Exhibit 2 (Twitter)

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and Exhibit 3 (Instagram and website). As these exhibits demonstrate, Harlem West is in substantial compliance with the Order on these platforms. They all include the main billing “VILLAGE PEOPLE* featuring original lead singer Victor Willis” and accompanying text in 12-point type stating either:

“The trademark Village People is the subject to litigation. There are two groups performing as Village People.”

or

“Village People is the subject of litigation. There are two versions of Village People.”

Harlem West respectfully submits that the latter formulation is in substantial compliance with the Court’s Order and shows a good-faith effort to comply, despite the minor variation in wording. Moreover, the Facebook page that includes the latter formulation also includes a comparison photo from Defendants’ own online presence, and that photo is prominently labeled with the exact language ordered by the Court, together with a caption saying “Get a load of these guys. This is not us. We’re the Village People featuring the real singer and writer of all the Village People hits.”¹

Clearly, Harlem West is not seeking to confuse consumers or undermine the purpose of the Court’s Order. Indeed, Defendants do not even allege any such intent in their Letter. It is thus difficult to fathom Defendants’ eagerness to complicate the matter for all parties and the Court by proposing a motion to compel, when Harlem West is making reasonable good faith efforts to comply, is already in substantial compliance, and communications between counsel have otherwise been cordial and productive.

Defendants’ Letter also includes, in its Exhibit D, a webpage from Pyramid Entertainment, a third-party booking agency that works with Harlem West. Pyramid has since incorporated the necessary text, see attached Exhibit 3A. Harlem West also notes that the analogous third party booking agent that works with Defendants, Red Entertainment, continues to feature a page for Defendants that is not in compliance with the Court’s Order, see attached Exhibit 5, so Defendants’ objection in this regard is tainted by their own unclean hands. Moreover, a number of problematic materials remain accessible through Defendants’ Facebook accounts, including without limitation the following:

¹ Harlem West respectfully submits that this text is no more disparaging than Defendants’ Facebook posting of Dec. 7, which still appeared on Facebook as of December 13, stating “Let us reiterate that Alex, Felipe, Ray, Eric, Bill and Jim are not the group performing as the Village People in Australia. We still look and sound great. Please don’t judge us by what you are now seeing and reading,” accompanied by a graphic showing the word AUSTRALIA with a large red Ghostbusters-like “NO” symbol superimposed over it. See attached Exhibit 4.

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Felipe Rose (Facebook/FollowingFelipe):
https://www.facebook.com/permalink.php?story_fbid=1365962093457161&id=175595535827162 (see attached Exhibit 6, story shared by Felipe Rose, beginning “the current official Village People is [Defendants]”)

OfficialVillagePeople
<https://www.facebook.com/officialvillagepeople/photos/a.10150195464216025.308617.202364961024/10155311509496025/?type=3&theater> (see attached Exhibit 7, “Believe in the Legendary Village People”)

These materials, and all other examples of pre-December 8 content that remain available online in violation of the Court’s Order should be taken down. Harlem West does not believe, however, that the Court’s intervention is necessary at this time, and believes that the parties can effectively cooperate to implement the Order pending the mediation. We look forward to discussing these matters at the conference scheduled for 3:30 this afternoon, unless the Court agrees with Harlem West that no conference is necessary at this time.

We thank the Court for its consideration.

Respectfully submitted,

s/ Robert W. Clarida
Robert Clarida
Counsel for Harlem West

cc: all counsel (by ECF)
encls: Exhibits 1-7

EXHIBIT 1

Village People



Robert

Home

Find Friends

4

19



Village People
@RealVillagePeople

Home

About

Videos

Photos

Posts

Community

Create a Page



Like

Follow

Share

Learn More

Message

Status

Photo/Video



Write something o

Post as your Page or as yourself.

Post Attribution Settings

OK

Videos

We have arrived in Australia along with our legendary ...

12 7

Message to Australia

9 5

Village People: A Very Merry...

13 1

See All

See More

Musician/Band

Community

See All

Invite your friends to like this Page

49,437 people like this

49,425 people follow this

About

See All

Typically replies within a day

Send Message

www.villagepeople.com

Musician/Band

English (US) · Español · Português (Brasil) ·
Français (France) · Deutsch

Privacy · Terms · Advertising · Ad Choices

Cookies · More

Facebook © 2017

Chat

EXHIBIT 2

Home Moments Search Twitter Have an account? Log in

VILLAGE PEOPLE* featuring original lead singer Victor Willis

*The trademark Village People is the subject of litigation. There are two groups performing as Village People.

Featuring **VICTOR WILLIS**

Tweets 11 Following 55 Followers 933 Likes 6 Follow

VillagePeople

@WeVillagePeople

One of the most iconic music groups in the world!

Los Angeles, CA

villagepeople.com

Joined August 2017

New to Twitter?

Sign up now to get your own personalized timeline!

Sign up

Worldwide trends

#ChristmasJumperDay

45.1K Tweets

#BuenViernes

17.3K Tweets

#هل_تجيب_هدية_لزوجتك

19.6K Tweets

#UglySweaterDay

6,973 Tweets

#LoPeorDePiñeraEs

3,741 Tweets

Roger Guedes

5,808 Tweets

Elba Esther Gordillo

4,495 Tweets

FBI National Academy

15.2K Tweets

La FIFA

28.9K Tweets

Tweets Tweets & replies Media

Pinned Tweet



VillagePeople @WeVillagePeople · Dec 13

Village People is the subject of litigation. There are two versions of Village People now.

1



VillagePeople Retweeted



montygotrawdeal @montygotrawdeal · Dec 14

@WeVillagePeople @victorwillis @SisterSledge_ @hwcasey @kcandsunshineb I give your Tuesday night show 4.5/5 stars and any reviewer who says otherwise doesn't know what they're talking about. Fantastic show and as good as anything else I've seen this year



1

VillagePeople Retweeted



Victor Willis @victorwillis · Sep 27

Replying to @FLitz @villagepeople
the freal is right. But you find us @WeVillagePeople. The fakes are @villagepeople don't get it twisted.

2



31



VillagePeople @WeVillagePeople · Sep 13

VILLAGE PEOPLE ARE BACK! First performance with @victorwillis back at the helm is 9/26 on @streamys! streamys.twitter.com #streamys



0:21 5,518 views

EXHIBIT 3



realvillagepeople

Follow

realvillagepeople The trademark VILLAGE PEOPLE is the subject of litigation. There are two groups performing as Village People.

e_zimny, dully.dageneral, adelita.santana83, kalil.haddad and edashs like this

8 HOURS AGO

Log in to like or comment.

INTRODUCING THE NEXT CHAPTER OF VILLAGE PEOPLE®



FEATURING ORIGINAL LEAD SINGER: VICTOR WILLIS® ALL NEW WEBSITE AND SOCIAL MEDIA COMING SOON!

INTERIM BOOKING INQUIRIES:

ERIC GODTLAND MANAGEMENT:

eric@egminc.com (<mailto:eric@egminc.com>)

FOR ADDITIONAL INFORMATION:

HARLEM WEST ENTERTAINMENT:

karen@harlemwestentertainment.com (<mailto:karen@harlemwestentertainment.com>)

EXHIBIT 3A

[Back to Dance & Disco \(rosCatTalListing.php?catName=Dance and Disco\)](#)Artist Name: **VILLAGE PEOPLE* featuring Original Lead
Singer Victor Willis**

Category: Dance & Disco

[Book Now](#)

(bookingProfile.php?talid=206)

ABOUT ME

VILLAGE PEOPLE* featuring original lead singer Victor Willis is the group with the actual iconic lead singer of all the Village People hits including YMCA, Macho Man, In the Navy, Go West, and San Francisco/In Hollywood Everybody's A Star. Victor is also the writer of the group's biggest and most iconic hits such as "Y.M.C.A. Macho Man, In the Navy, Hot Cop, and "Go West" to name a few. The group is celebrating the 40th anniversary of Victor's first recordings under the auspices of Village People. *The trademark Village People is the subject of litigation. There are two groups performing as Village People. For 40 years, the music of Village People has been putting smiles on the faces of fans all around the world. Their hits have become part of the international songbook – and heard in commercials from Pepsi to Wonderful Pistachios. In fact, the iconic Y.M.C.A (along with its dance) is featured at almost every party, wedding, bar mitzvah, and sporting event. It began in 1977 when producer/composer Jacques Morali, with business partner Henri Belolo, were recording a new album for their group, Ritchie Family, called African Queens. One of the background singers recruited for the album by arranger and conductor Horace Ott was Victor Willis who was performing in the Broadway musical The Wiz. After completing the album, Morali and Belolo again approached Willis – this time about another musical project they were planning. "I had a dream that you sang lead vocals on an album I produced, and it went very, very big," Morali told Willis. "I have four tracks. I can't pay you much right now but if you agree, I'll make you a star." Willis agreed. Those four tracks, San Francisco (You've Got Me), In Hollywood (Everyone's a Star), Fire Island, and Village People were recorded by Willis with professional background singers and released on the debut album Village People in 1977. Essentially, Village People initially was simply Victor Willis. The album quickly rose to the top of the dance charts. Demand for the "group" to appear in concert and on television shows like American Bandstand and Merv Griffin was great. The only problem ... there was no group! This forced Morali, Belolo and Willis to put together an actual group around Willis and quick. Village People become an international phenomenon with the release of their second album, Macho Man. Following the release of their third album, Cruisin, they embarked on a worldwide tour. Cher, Madonna and Joan Rivers are among artists who appeared on the bill with Village People everywhere from Las Vegas to Madison Square Garden to Hollywood's Greek Theatre. Even Michael Jackson shared billing with the group. With hits like San Francisco/In Hollywood, Macho Man, YMCA, In the Navy and Go West, the group sold more than 100 million records worldwide and earned many awards including the American Music Award-Favorite Musical Group 1979. Village People was featured on the cover of Rolling Stone. Television appearances included a Bob Hope Special, 20/20, American Bandstand, Solid Gold, Soul Train, Midnight Special, and Don Kirshner's Rock Concert. Village People hits are featured in dozens of major motion pictures, including Wayne's World II, Adams Family Values, The Nutty Professor, and Despicable Me 2. The Broadway hit Priscilla: Queen of the Desert features the Village People tune Go West. The songs are also heard in casinos around the world in "Village People Party" slot machines. In September 2008, the group received a star on the Hollywood Walk of Fame. Over the years, various renditions of Village People consistently toured the world with several replacement lead singers. On the 40th anniversary of the group, Willis, the original lead singer, returned. With his powerful and distinctive voice, the party continues with the original "Hot Cop" back at the helm featuring a live band for a world class Village People performance and headline act.

PICTURE GALLERY